

REMARKS

This is in response to an Office Action that was mailed on December 9, 2008. Claims 1-6, 8-19, 21-24, 26, 27 and 29-31 were pending in that action. All claims were rejected. With the present response, claims 1, 15 and 26 are amended. Claims 10, 11, 24, 29 and 30 are cancelled. The remaining claims are unchanged.

**It is respectfully pointed out that the amendments proposed herewith raise no new issues that have not already been considered. In essence, the proposed amendments amount to little more than relocation of dependent claim features into their consecutively (in terms of dependency) adjacent corresponding independent claim. Accordingly, consideration and entry of the amendments are respectfully solicited.**

Beginning on page 2 of the Office Action, the Examiner noted a spelling mistake in claim 29. With the present response, claim 29 has been cancelled.

Beginning on page 3 of the Office Action, the Examiner rejected all pending claims under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 5,999,908, which is attributed to Abelow. For reasons that will be discussed in detail below, it is respectfully submitted that the pending claims, at least as amended herewith, are patentably distinguishable from the cited reference.

Before moving to the claims in great detail, Applicant first invites the Examiner to review FIG. 2 of the Specification as originally filed in the present case. This Figure shows a system within which three different parties communicate with one another over a network 310. The three parties are user 302, query service provider 304 and subscriber (also referred to as the ACME Company) 306.

Applicant's Specification describes an example wherein subscriber 306 subscribes to a query service provided by query service provider 304. In particular, the service provided to subscriber 306 over network 310 empowers subscriber 306 with tools that facilitate creation of a dynamic survey that is provided to user 302 over network 310. When the dynamic query is completed by user 302, it is submitted to query service provider 304. Service provider 304

transmits an electronic mail message (or other communication message), along with the information gathered from the user 302 in response to the dynamic query, to subscriber 306.

Applicant now asks the Examiner to note the screen shots provided in FIGS. 4-9 of the present application. These screen shots include examples of services provided by a service query provider over a computer network to a subscriber. In particular, the screen shots show how a subscriber to a query service provider is empowered to create a dynamic query that is delivered and processed relative to a customer on the subscriber's behalf.

Accordingly, embodiments of the present invention amount to more than a client-side computer application for creating a survey for one's own customers. For example, embodiments pertain to a centralized query service provider that provides query construction services to many subscribers over a network. The query service provider interacts with its customers in order to create surveys. These surveys are then delivered, followed up on, and managed on the subscriber's behalf.

Applicant now invites the Examiner to compare this to the systems described in the cited Abelow reference. FIGS. 17, 18 and 20 of the cited reference make it very clear that all query creation services are conducted locally on a client machine. Once a query is constructed, it is delivered over a network to a remote module. However, the scenarios described in the Abelow reference are not consistent with a query service provider scenario as described in Applicant's Specification. In fact, FIGS. 17, 18 and 20, as well as their related description in the Abelow specification, make it abundantly clear that the authoring system responsible for creating a query dialog is "at vendor" and not a remotely delivered service.

Applicant invites the Examiner to review the Abelow specification at column 9, lines 30-35. As is stated very clearly at this point, the authoring system is located on the computer of the vendor (emphasis added). A close reading of the rest of the specification reveals that the authoring system is what is responsible for tools related to query formatting and editing. All of this is consistent with FIGS. 17, 18 and 20 of the cited Abelow reference.

Applicant respectfully requests that the Examiner keep these preliminary comments in mind during the following detailed discussion of the pending claims. The noted

differences between embodiments of the present invention and the teachings of the Abelow reference are hopefully emphasized in the presently presented amendments to the claims. For reasons that will now be discussed in detail, it is respectfully submitted that the pending claims, at least as presently amended, are patentably distinguishable from the cited Abelow reference.

Independent claim 1 includes a step of providing, over a computer network, a query form to a recipient. The claim limits the query form to containing query configuration tools including a plurality of controls that are selectively manipulatable so as to dictate a content, order, and method of answering at least some survey questions to be included in a dynamic survey query. Referring to FIG. 2 of Applicant's Specification, it is respectfully submitted that this is similar to query service provider 304 providing a query form to subscriber 306. The form that is provided is for gathering information to serve as the basis for generation of a dynamic query and specifically is not the dynamic query service itself.

Independent claim 1 also includes receiving, over the computer network, query configuration data from the recipient. As claimed, the query configuration data is indicative of how the dynamic survey query should be formatted in order to be consistent with manipulation of the plurality of controls by the recipient. It is respectfully pointed out that this is similar to subscriber 306 providing a filled out version of the query form back to query service provider 304. At this point, the dynamic survey query can be constructed based on how the subscriber manipulated the controls within the query form. Notably, this transaction of providing a query form and receiving corresponding query configuration data occurs over a network. It is also a transaction that is completely separate from any sending and receiving of an actual dynamic query survey to a user.

It is respectfully pointed out that the cited Abelow reference fails to teach or suggest any provision of a query form over a network as claimed. To the extent that the cited Abelow reference teaches or suggests any tools for constructing a dynamic query form, there is absolutely no teaching or suggestion of providing such functionality over a network consistent with a service model as claimed. Again, FIGS. 17, 18, 20 and column 9 of the cited Abelow

reference makes it very clear that query construction is locally handled. For at least these reasons, it is respectfully submitted that independent claim 1 is in allowable form.

Further, with the present response, Applicant has moved elements of now cancelled dependent claim 10 into independent claim 1. Thus, claim 1 now limits the step of receiving query configuration data over a computer network to receiving query branching data indicative of an order in which questions in the query are displayed to the user based on answers to the questions in the dynamic survey query. Further, the claim limits the query branching data to being a direct reflection of manipulation, by the recipient, of the plurality of controls.

It is respectfully pointed out that, to the extent that the Abelow reference teaches or suggests manipulating query branching data, there is absolutely no indication that this should be done via a remote transaction over a network. In response to claim 10, the Examiner points to several different passages from the cited Abelow reference. It would seem that the Examiner is somehow attempting to equate components of an actual survey delivered to a customer to the claimed query configuration data. However, notably, claim 1 distinguishes between an entity that ultimately receives the dynamic survey query and a recipient that dictates the specifics (e.g., the branching of questions) of the content and format of the query. In the Office Action, the Examiner repeatedly points to the customer to being equivalent to the claimed “recipient.” However, this interpretation fails because claim 1 requires the recipient to be an entity other than the user that ultimately completes the dynamic survey query.

In essence, independent claim 1 requires interaction among three different entities that communicate over a computer network. The cited Abelow reference only describes interaction among two entities. The cited reference fails to teach or suggest a query service that interacts consistent with the elements of claim 1 with both a recipient and a user.

Still further, Applicant has added the elements of dependent claim 11 into independent claim 1. Thus, claim 1 is now even more specifically limited to query branching data that is configured to dynamically change which questions are presented to the user based on the user’s answers to previous questions in the dynamic query survey. In response to this claim element, the Examiner points to “specific trigger events” described in the cited Abelow

reference. However, at no point are “development interactions” edited so as to alter specific trigger events based on a query alteration tool provided over a network. Even if the Abelow reference does teach or suggest the specifically claimed query branching data, it does not teach or suggest acquiring such data for the purpose of constructing a dynamic query survey based on a remotely provided query service as claimed.

For at least these reasons, it is respectfully submitted that independent claim 1 is in allowable form.

Dependent claims 2-6, 8, 9 and 12-14 are dependent upon independent claim 1 and are believed to be in allowable form at least for their dependence upon what is believed to be an allowable claim. Further, it is respectfully submitted that some or all of these dependent claims are based on the merit of their own limitations.

With the present response, Applicant has also amended independent claim 15. Claim 15 requires a query service component that provides a content provider with a pre-configured survey template along with tools for altering the template. The claim has also now been limited such that the tools for altering must include tools for altering which question is presented next based on an answer to a previous question.

In response to the claim element that requires a pre-configured survey, the Examiner provides little guidance in the Office Action as to what in the cited Abelow reference is perceived as being equivalent. It is respectfully pointed out, however, that the cited Abelow reference teaches nothing more than tools for generating a survey-type interface. There is nothing in the reference that is equivalent to a pre-configured survey template along with tools for altering the template. There certainly is no teaching or suggestion of tools for altering the order of questions based on answers in association with a pre-configured survey template. For at least these reasons, it is respectfully submitted that independent claim 15 and its associated dependent claims 16-19 and 21-23 are in allowable form. It is also submitted that some or all of these dependent claims individually recite elements that are patentable based on the merit of their own limitations.

Claims 26, 27 and 31 are all now limited to including elements consistent with now cancelled claims 29 and 30. These claims are believed to be patentable at least for reasons similar to those discussed above in relation to other pending claims.

In summary, it is respectfully submitted that claims 1-6, 8, 9, 12-19, 21-23, 26, 27 and 31 are in condition for allowance. The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

WESTMAN, CHAMPLIN & KELLY, P.A.

By: /christopher l holt/

Christopher L. Holt, Reg. No. 45,844

900 Second Avenue South, Suite 1400

Minneapolis, Minnesota 55402-3319

Phone: (612) 334-3222 Fax: (612) 334-3312

CLH:rkp